2011 Housing Tax Credit Program
QAP and Procedural Manual Revisions

Staff has reviewed the public comments. Changes made as a result of comments are detailed below. The remainder of the proposed changes for the 2011 QAP remain as initially presented at the January 28, 2010 Board meeting.

Statutory

No statutory changes are proposed.

Qualified Allocation Plan and/or Procedural Manual

The following items are proposed changes:

1. Revise Local/Philanthropic Contributions selection criterion.

- Points are awarded for projects that are receiving contributions from a local unit of government; an area employer; and/or a private philanthropic, religious or charitable organization. Modify the criterion to:
  - Exclude loans as a contribution. Loans are already taken into account in the Leverage and Readiness to Proceed categories of the self-scoring worksheet.
  - Add language that clarifies that "no contributions from any part of the ownership entity will be considered a contribution except for grants from local units of governments or charitable organizations awarded pursuant to a funding competition." This will allow for distinction between general partner cash to the project and true contributions from local and/or philanthropic organizations.

Public Comments Summary (*staff responses italicized*):

- Include General Partner Cash as an eligible contribution.
  The Local/Philanthropic selection criterion was developed to encourage external contributions from a local unit of government; an area employer; and/or a private philanthropic, religious or charitable organization. General Partner cash is a valuable source of funds that we continue to encourage through the Leverage and Readiness to Proceed priorities.

- Include non-capital resources as a contribution.
  Non-capital resources are reviewed as part of a project's financial feasibility and is a threshold item.

- Allow loans as a contribution / grants impact basis and are often converted to deferred loans to be includable in basis.
  We want to continue to acknowledge Local/Philanthropic contributions without the negative basis impact associated with grants; therefore, we propose to allow in the calculation of Local/Philanthropic contributions, loans that are deferred or restricted grants converted to deferred loans with a minimum term that is co-terminus with the HTC declaration at an interest rate at or below the Applicable Federal Rate (AFR) with no identity of interest.

- o Include NAHASDA loans as an eligible contribution.
  Structured as the above, the NAHASDA loan would be includable as a contribution.

- o Recognize contributions from tribes as separate from the independent operating public housing agency for purposes of determining identity of interest.
  We acknowledge that the proposed structure would meet the identity of interest test.

- o Continue to include "Reservation Land not Subject to Local Property Taxes" and "Reservation Land with Long-Term Low Cost Leases" as a contribution.
  Agree there are no recommended changes.

Proposed change resulting from public comment:

- o Allow in the calculation of Local/Philanthropic contributions, loans that are deferred restricted grants converted to deferred loans with a minimum term that is co-terminus with the HTC declaration at an interest rate at or below the AFR with no identity of interest.

2. Revise Readiness to Proceed selection criterion.

- o Points are awarded to projects that have secured funding commitments at the time of application. Tax credit syndication proceeds from projects that have received an award of tax credits from a previous round have been included in the Readiness to Proceed calculation in the past. In acknowledgement that projects may have been awarded tax credits but may not have a syndicator/investor, verification of syndication proceeds will be required to be included in the calculation. Acceptable verification will include:
  - ▪ An executed syndicator agreement or an executed Letter of Intent from the syndicator that is acceptable to Minnesota Housing.
  - ▪ The executed Letter of Intent must:
    - Be current within 15 days of submission of the application
    - Contain a projected closing date for the development
    - Contain a projected equity price for the purchase of the credit
    - Contain a detailed explanation of the assumptions being used by the syndicator to arrive at the projected equity price

- o Add points for non-financial Readiness to Proceed components in the Readiness to Proceed scoring criterion. The Readiness to Proceed category has been a measure of readiness by assessment of funding commitments without regard to non-financial components. Increasingly, investors and syndicators are placing a strong emphasis on Readiness to Proceed. Points will be awarded to projects that have provided verification of the following at the time of application:
  - ▪ Land use and zoning approvals
  - ▪ Title work and survey
  - ▪ Verification that all infrastructure for the project is complete
  - ▪ Draft building permits
  - ▪ Executed firm commitment letters from the providers of all other funding sources.

Public Comments Summary (staff responses italicized):

- Include syndication proceeds in calculation for current tax credit request.
  The Readiness to Proceed calculation measures committed funds. Tax credits from the current request have not yet been awarded and therefore are not committed funds.

- Separate Title Work and Survey to two separate items or change language to require only the survey if on tribal trust land in acknowledgement of the difficulty of obtaining the Title Status Report, which requires approval from the Bureau of Indian Affairs and which takes 6-12 months for approval.
  Agree; revise language to require only a survey only if on tribal trust land.

- Do not require that survey be current.
  Agree, as long as the legal description or building footprint has not changed since the survey was completed.

- Clarify what is required for "Executed firm commitment letters from the providers of all other funding sources".
  This item was included under the non-financial readiness to proceed area and upon further review is already considered in the financial readiness to proceed area, so this item should be eliminated.

- Include all soft financing in calculation regardless of lien position.

- Subtract first mortgage financing from the numerator and denominator in the calculation.
  No change is recommended for these two comments for the 2011 QAP. We need to assess the Financial Readiness to Proceed measurements further. Staff will work with the Agency research department over the next year to assess the measurements.

Proposed change resulting from public comment:

- Update Title Work and Survey to require only a survey if the project is located on tribal trust land.

- Provide clarification that the survey does not need to be current if the legal description or building footprint has not changed since the survey was completed for a rehab development.

- Eliminate "Executed firm commitment letters from the providers of all other funding sources" under the Non-financial Readiness to Proceed items.

3. Revise Preservation of Federally Assisted Units scoring criterion.

Points are awarded to a project that preserves federally assisted low income housing which, due to the ability to opt out of the programs, physical deterioration or deterioration of capacity of current ownership/management entity would lose its federal subsidies. With the current economic conditions, it is even more critical to support the preservation of federally subsidized housing. Much of the federally assisted inventory is 30 – 40 years old and in need of significant capital improvements to ensure viability for the long term. Capital resources are limited and at least in the short run; preservation is a cost effective measure that produces rapid results.

Additionally, the federal dollars being leveraged enable the developments to serve a very low income population yet maintain operations with rents comparable to market.

Public Comments Summary (staff responses italicized):

- Establish a Preservation Set-Aside.
  The addition of 10 points encourages preservation and will provide priority for Preservation of Federally Assisted developments and a specific set-aside for preservation is not necessary as the points eligible for preservation projects provide significant priority to preservation projects.

- Expand priority to preservation not just to preservation of federally assisted.
  Points are awarded to preservation developments in the areas of Strategically Targeted Resource and Preservation of Existing Housing Tax Credit Units. The proposed change acknowledges the higher priority established for the preservation of at risk federally subsidized housing.
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Proposed change resulting from public comment: None.

4. Add scoring criterion for projects that have No-Smoking Policies.

In support of the Agency's mission to enhance quality of life and to support sustainable, healthy housing, points will be awarded to projects that adopt a No-Smoking policy within the project building(s). No-Smoking policies in multifamily housing have been found to reduce costs associated with rehabbing apartments and management operations and to reduce the risk of fire damage and death in properties.

Public Comments Summary (staff responses italicized):

- Include language that allows for limited use of tobacco for religious or ceremonial purposes.
  Allowances for smoking will impact neighbors that expect a non-smoking building and will negate the benefits listed above and cause administration and compliance monitoring issues.

- Supports the non-smoking policy but requests that we include monitoring clarifications/expectations.
  Agree.

Proposed change resulting from public comment:
Language will be incorporated into the self-scoring worksheet stating that projects awarded points for this scoring criterion will be required to institute and maintain a written occupancy policy prohibiting smoking in all units and common areas within the building(s) of the project . The project must include a non-smoking clause in the lease for every household, and the owner will be required to maintain the project as smoke-free for the term of the HTC declaration.

5. Add scoring criterion for transit-oriented developments.

Consistent with a long-standing funding priority in other programs for projects that are near transportation, point(s) will be awarded to transit-oriented developments. Increasing location efficiency can lead to more walking, biking, and use of transit thereby boosting transit ridership and reducing traffic congestion. Proximity to transit is an element of the Green Communities Criterion adopted by the Agency. Lack of transportation is a major barrier to employment for low-income households; connecting affordable housing to transportation systems can help reduce costs for low-income households and supports attachment to the workforce.

Public Comments Summary (staff responses italicized):

- Several comments were submitted suggesting that the proposed points for transit-oriented developments be modified for projects located in Greater Minnesota due to the lack of public transportation in some smaller communities in Greater Minnesota. *Providing transit-oriented development points for projects that may be serviced by on-demand transportation would reward projects that do not achieve most of the benefits of transit-oriented developments: increasing "location efficiency" so people can walk, bike, and take transit, boosting transit ridership and minimizing traffic, providing a mix of housing, shopping, and transportation choices, reducing greenhouse gas emissions and creating a sense of place. Projects serviced by on-demand transportation system may assist with minimizing the dependence on car ownership.*

  Applications for credits in the first round are divided into regional pools so that projects located in Greater Minnesota only compete against one another. The regional pool system diminishes any disadvantage that projects located in Greater Minnesota might have due to limited fixed route public transportation systems.

- Allow points for existing lines only, not proposed lines. *The Metropolitan Council maps include proposed lines that will be completed within a reasonable time, supporting the intent of Transit Oriented Development.*

- Expand definition of Transit Oriented Development to include developments near current transit stops or proposed stops to be developed with a high degree of certainty in some reasonable time period. *Expansion to existing bus stops in any location would not differentiate Transit Oriented Developments.*

Proposed change resulting from public comment: None.

6. Establish a temporary priority for foreclosure recovery efforts (underlined text added and made available to the public for comment).

A temporary priority will be established for developments that restore foreclosed or vacant properties to the affordable housing stock and for developments that are located in high impact foreclosure areas. The temporary priority aligns the QAP with the Agency's strategic priority of addressing foreclosures. Investment in the housing stock in distressed neighborhoods will contribute to neighborhood revitalization.

Points will be awarded to projects proposing to acquire and rehabilitate a Foreclosed Property (Foreclosed Property means the project's real estate and improvements acquired by applicant by way of a deed-in-lieu of foreclosure, sheriff's certificate or court order through a foreclosure proceeding) or are located in a zip code identified by Minnesota Housing that has been highly impacted by the foreclosure crisis (see attached HTC QAP High-Impact Zip Codes). In cases where the project involves a Foreclosed Property, the proposed project cannot be a conversion in nature.

<u>The project must consist of a minimum of 12 units and all units must be located on one parcel and, in the case of multiple buildings, no building may contain less than 6 units.</u>

<u>For applications proposing to acquire and rehabilitate a project which has been foreclosed, applicant must provide at the time of application:</u>

- <u>Evidence of applicant's ownership rights to the property</u>
- <u>Narrative which clearly identifies (1) the number of tenant leases which are valid and in force and (2) the terms and conditions of those leases which would have a direct impact on Minnesota Housing's analysis and underwriting of the project proposed in the application.</u>

  <u>Failure to acquire good title to the property will result in the reevaluation and adjustment of the tax credits or RFP award, up to and including the total recapture of tax credits or RFP funds.</u>

Public Comment Summary:

- Allow buildings with less than 6 units; (the 6 unit minimum excludes townhomes).

Proposed change resulting from public comment:

- Remove the 6 unit per building minimum. Proposed language:
  - The project must consist of a minimum of 12 units, and all of the units must be located on one parcel or contiguous site.

7. **(NEW) Revise Economic Integration Scoring Criterion.**

Public Comment Summary:

- Increase percentage of allowable HTC units to 75% (currently a project must have 25-50% HTC units as opposed to market rate units to be considered Economic Integration).
- Include Surrounding Community and Variety of units as an indicator of Economic Integration.
  This comment is consistent with the Agency's policy prioritizing for funding projects that assist with the economic integration of a community. See Challenge and Housing Trust Fund programs' rules and enabling legislation at Minn. Stat. §462A.02, sub. 6.

Proposed change resulting from public comment:

- Revise the scoring criteria to include an award of 2 points for developments located in neighborhoods with average incomes that are <u>150</u>% or more above the HUD established area median family income. Department of Revenue data by census tract will be used to identify appropriate census tracts. Data by census tract is not available outside the seven county Twin Cites metropolitan area. In order to equalize treatment of projects located in Greater Minnesota and the Twin Cities metropolitan area in the second funding round, staff is proposing that the points awarded for economic integration within a community would be disregarded in the second round. Some administrative complexities around this approach require further examination. If the administrative hurdles cannot be overcome, staff recommends delaying implementation of the change until the next QAP to allow sufficient time to work through the implementation issues.

<u>**Scoring Criteria Impact:**</u>

1. **Readiness to Proceed (NEW CRITERION):**

   The proposed revision would add one point for each non-financial readiness to proceed item listed above up to a maximum of <u>4</u> points.

2. **Preservation of Federally Assisted Units:**

   The proposed revision would increase the point value from 10 points to 20 points.

3. **No-Smoking policies (NEW CRITERION):**

   The proposed revision would add one point for projects that adopt a No-Smoking policy within all project buildings and common areas.

4. **Transit –Oriented Development (NEW CRITERION):**

   <u>The proposed revision would add 3 points for developments located within walking distances of public transit stations and stops.</u>

   <u>To receive the points, a development in the 7-County Metro Area must be:</u>
   - Located within a ½-mile radius of a Red Line station identified in the Metropolitan Council maps (see attached maps); or
   - Located within a ¼-mile radius of a Blue Line public transit fixed route stop identified in the Metropolitan Council maps (see attached maps); or
   - Located within a ½-mile radius of an Express Bus station/park and ride identified in the Metropolitan Council maps (see attached maps).

   <u>To receive the points, a development in Greater Minnesota must be located within a ½-mile radius of a public transit fixed route stop or station.</u>

   <u>At the time of application, the applicant must submit a map identifying the location of the project with exact distances to the eligible public transit station or stop and include a copy of the route, span and frequency of service.</u>

5. **Temporary Priority for Foreclosure Recovery (NEW CRITERION):**

   <u>The proposed revision would add up to a maximum of 3 points as follows:</u>

   - For applications proposing to acquire and rehabilitate a Foreclosed Property which is located in one of the designated high-impact foreclosure zip codes. – 3 points
   - For applications proposing to acquire and rehabilitate a Foreclosed Property which is not located in one of the designated high-impact foreclosure zip codes. – 2 points

   - For applications proposing to acquire and rehabilitate a property that is located in one of the designated high-impact foreclosure zip codes. – 1 point

6. **Economic Integration (NEW CRITERION):**

   The proposed revision would add an option for 2 points for Economic Integration within the surrounding community. The maximum points for Economic Integration will remain 2 points. Points awarded for economic integration within the surrounding community will be disregarded in the second funding round.

General Administrative and Clarifications:

Perform various administrative checks for spelling, formatting, text and instruction corrections and clarifications within QAP, Manual, Self-Scoring Worksheet, and other 2011 tax credit program documents.

Additional Public Comment Summary (staff responses italicized)

- The Agency received one letter of support for continuation of the Long-term Homeless (LTH) priority and received three comments proposing to remove the LTH bonus points or the LTH priority completely.
  Serving long-term homeless households continues to be an important Agency priority that supports the State's Business Plan to End LTH. The QAP has been an effective mechanism to encourage development of LTH units. The majority of the HTC projects submitted to the Agency contain a minimum of four LTH deemed units, and no changes to the LTH priority in the QAP are recommended.

- Two comments were submitted relating to senior housing. One commenter suggested adoption of a set-aside for senior housing.
  Minnesota Housing's current policy does not prioritize age-segregated housing; however, housing that serves seniors is funded as part of preservation efforts and through the provision of housing for very low income households. The current policy is consistent with the policy direction and vision of the 2030 Project – a special project undertaken by the Department of Human Services in partnership with the Minnesota Board on Aging to identify the demographic realities of the aging of Minnesota's population and prepare the State's response to the baby boom generation that begins turning 85 in 2030. The vision is for communities that promote a wide range of housing types and options that offer older persons real choice for dependent or independent living and that support the ability of older people to live independently longer. The policy direction suggests housing that is responsive to household size, physical and mental abilities and income as much as age.

  Minnesota Housing will not make changes to promote a greater use of tax credits in senior housing developments at this time. The Agency is cognizant of the demographic shifts that will occur over the next 20 years. It is committed to reviewing the most current literature on housing for the aging population and best practices and examining the private, unsubsidized market response to those housing needs to determine whether and how its current policy should be revised.

- Restrict 30% basis boost to preservation of at risk properties located in foreclosure impacted areas or projects that are unable to move forward due to tax credit volatility.
  The 30% basis boost is for developments that meet state-identified priorities by competitive tax credit score that still have remaining funding gaps. The policy already allows for the 30%

basis boost for preservation projects and for projects that are unable to move forward due to tax credit volatility.

- For rehabilitation developments, do not require any minimum bedroom size for large family proposals.
  To be eligible for large family points, the HTC design standards state that the bedrooms have a minimum dimension of 9 feet 6inches and a minimum area of 100 sq. ft. Staff architects reviewed the requirements, and the 2010 HTC design standards were revised to incorporate a variance by request if the lineal dimensions are within 15% of this requirement. No additional variances are recommended.

- Add points to the self-scoring worksheet for developer experience and capacity similar to the TCAP/1602 Score-sheet.
  Development team capacity is reviewed in the Agency's feasibility review for the HTC and RFP developments. Points were awarded for the TCAP/1602 program to differentiate those with a proven track record of developing and managing tax credit projects due to the tight expenditure and completion deadlines and additional asset management responsibilities established by HUD and Treasury.

- Add 10 points for projects located on tribal lands.
  No recommendation for addition of points. Projects should compete to the extent they meet the Agency priorities.

- Exclude bridge loan interest from the Intermediary Cost calculation.
  Points are awarded to projects agreeing to keep their Intermediary (soft) costs low. Syndicators put their equity into the projects in staged pay-ins to reduce their risk, allowing higher syndication prices. These projects secure construction bridge loans until the equity comes in. Bridge loans are the norm in tax credit developments, putting developers on an equal playing field.

Public comments not applicable to the QAP (staff responses italicized)

- Allow construction management arrangements.
  As part of the Agency's design requirements, construction management is already allowed.

- Contact the Office of Energy and Security (OES) and encourage the targeting of Weatherization Assistance Program (WAP) funds to HTC projects.
  The Agency is already working closely with OES in the targeting of WAP funds to multifamily projects.

- Provide waiver ability for Green criterion and vacancy rates.
  There is currently a process for waiving green criterion and a process for allowing variances to vacancy rate benchmarks.

- Add flexibility to the QAP to allow for investor/lender changes due to tough market.
  This is an underwriting issue. The Agency reviews requests for variances to Agency underwriting benchmarks or policies on a case by case basis. Developers should be communicating with investors, lenders and the Agency early to identify potential underwriting issues.